

## REMARKS

Claims 1-23 are pending in the present application. In the above amendments, Claims 1, 3, 7 and 21-23 have been amended.

The 9/2/2005 Office Action rejected Claims 1-10 and 21-23 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1, of U.S. Patent No. 6,324,172. Applicant hereby files a terminal disclaimer to overcome this rejection because U.S. Patent No. 6,324,172 is assigned to the same assignee as the present application.

The Office Action rejected Claims 1-3, 6, 7, 12-17 and 20-23 under 35 U.S.C. § 102(b) as being anticipated by “Seshadri et al. (U.S. Patent No. 5,442,625).” Applicant spoke to Examiner Lee on 11/21/05 and clarified that the Office Action should have stated “Seshadri et al. (U.S. Patent No. 5,420,851).”

Seshadri discloses a “format for frame 401” with “uplink” and “downlink” sections 410, 415. However, Seshadri does not disclose or teach “allocating to each of the plurality of producers a first portion of the capacity of the common channel and a second portion of the capacity of the common channel, the common channel being a reverse link of a wireless communication system, the first and second portions being data transmission rates,” as recited in Applicant’s Claim 1. The Office Action cited column 4 of Seshadri, but this column does not disclose allocating first and second “data transmission rates” to data producers, as recited in Claim 1.

Seshadri also does not disclose or teach “wherein the second portion of the capacity of the common channel allocated to each of the plurality of producers is based at least in part on the extent to which the corresponding producer is determined to have used the corresponding first portion of the capacity of the common channel,” as recited in Applicant’s Claim 1.

Claims 2-20 depend on Claim 1 and should also be allowable for at least the reasons above. Independent Claims 21, 22 and 23 have been amended to include limitations similar to Claim 1 and should be allowable for at least the reasons above.

The Office Action rejected Claims 4, 5, 8, 11, 18 and 19 under 35 U.S.C. 103(a) as being unpatentable over Seshadri et al.

Claims 4, 5, 8, 11, 18 and 19 depend from Claim 1 and should be allowable for at least the reasons above.

Specification

The amendment to the specification is made by presenting a marked-up replacement paragraph that identifies the change. The amendment is primarily typographical or grammatical in nature, or involve minor clarification of awkward wording. This amendment is fully supported by the original disclosure and add no new matter to the application.

**REQUEST FOR ALLOWANCE**

In view of the foregoing, Applicant submits that all pending claims in the application are patentable. Accordingly, reconsideration and allowance of this application are earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Respectfully submitted,

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